

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 Fremont Street
San Francisco, California 94105

**NOTICE OF PROPOSED ACTION AND NOTICE OF
PUBLIC HEARING**

File No. RH 04038570

Notice Date: ~~July 29, 2004~~ August 23, 2004

Proposed Additions to the Insurance Commissioner's Regulations pertaining to claims adjuster training certification for workers' compensation insurance claims adjusters.

SUBJECT OF HEARING

Notice is hereby given that the insurance commissioner will hold a public hearing to consider the adoption of regulations that set the minimum standards of training, skill, and experience that all workers' compensation claims adjusters must possess. The proposed regulations also require insurers, as defined, to certify that their claims adjusters meet these minimum standards.

AUTHORITY AND REFERENCE

Division 2, Part 3, Chapter 3, Article 5, Section 11761 of the Insurance Code, operative on January 1, 2004, requires the insurance commissioner to adopt regulations setting forth minimum standards of training, experience, and skill that workers' compensation claims adjusters must possess to perform their duties with regard to workers' compensation claims.

HEARING DATE AND LOCATION

A public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the proposed regulations, at the following date, time and place:

~~September 29, 2004~~
10 A.M.
22nd Floor Hearing Room
45 Fremont Street
San Francisco, California 94105

Note: Hearing Date Is Changed to:
October 28, 2004

INFORMATIVE DIGEST

The regulations proposed in this Notice have been drafted in accordance with the statutory requirement in Insurance Code Section 11761, which became effective on January 1, 2004. The regulations are intended to implement and make specific the requirements of this section of the Insurance Code.

Insurance Code Section 11761 requires the Insurance Commissioner to adopt regulations setting forth the minimum standards of training, experience, and skill that workers' compensation claims adjusters must possess to perform their duties. There are no other statutes in California law that authorize the Insurance Commissioner to set such standards. There are no federal regulations concerning California workers' compensation claims adjusters or any other aspect of California workers' compensation. The purpose of the regulation is to allow the commissioner to set the minimum standards of training, experience, and skill for workers' compensation claims adjusters and to require insurers, as defined in Insurance Code Section 11761, to certify that claims adjusters in their employ, including personnel employed for that purpose by any medical billing entity with which an insurer contracts, meet the minimum standards determined by the Insurance Commissioner. Insurers, as defined in the law, include workers' compensation insurance companies, the State Compensation Insurance Fund, private and public employers who are self-insured pursuant to a certificate of self-insurance issued by the Department of Industrial Relations, or third party administrators who possess a certificate of consent from the Department of Industrial Relations.

The purpose of the regulations is to set minimum standards of competence for workers' compensation claims adjusters in order to ensure that workers' compensation claims are handled with efficiency, equity, and in accordance with all applicable laws and regulations.

COST OR SAVINGS AND MANDATE TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The insurance commissioner has determined that there will not be a cost increase and there will not be any new programs mandated on any local agency or school district as a result of the proposed regulations, if adopted as proposed herein. The costs of providing training, if any, will be offset by savings resulting from better claims handling.

IMPACT ON HOUSING COSTS

The insurance commissioner has determined that the proposed regulations will not have a significant effect on housing costs.

IMPACT ON CALIFORNIA'S BUSINESSES/SMALL BUSINESSES

The insurance commissioner has determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting California's businesses, including the ability to compete with businesses in other states. Also, the insurance

commissioner has determined that the regulations will have no effect on small businesses in California, other than the salutary effect of having workers' compensation claims handled by better trained claims adjusters.

COST IMPACT ON PRIVATE PERSONS OR ENTITIES

The insurance commissioner must determine the potential cost impact of the proposed regulations on private persons or businesses directly affected by the proposal. The commissioner is not aware of any cost impact that a representative private person would necessarily incur in reasonable compliance with the proposed action.

IMPACT ON JOBS AND BUSINESSES

The insurance commissioner has determined that the proposed regulations will have no significant affect on the creation or elimination of jobs or businesses within the State of California, nor will they have any significant affect on the expansion of businesses currently doing business in California.

FEDERAL FUNDING TO THE STATE

The matters proposed herein will not affect any federal funding.

NON-DISCRETIONARY COSTS OR SAVINGS

The proposed regulations will not impose any non-discretionary costs or savings to local agencies.

COST OR SAVINGS TO STATE AGENCIES

The matters proposed herein will not result in any cost or savings to State agencies, including the State Compensation Insurance Fund.

REIMBURSABLE COSTS

There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

COMPARABLE FEDERAL LAW

There are no existing federal regulations or statutes comparable to the proposed regulations.

NO REASONABLE ALTERNATIVE

The insurance commissioner has determined that no reasonable alternative to the proposed regulations has been identified that would be more effective in carrying out the purpose of the proposed regulations nor has any reasonable alternative been identified that would be as effective and less burdensome to affected private persons than the proposed action.

ACCESS TO HEARING ROOMS

The facility to be used for the public hearing is accessible to persons with mobility impairment. Persons with sight or hearing impairments are requested to notify the contact person for these hearings (listed below) in order to make special arrangements, if necessary.

PRESENTATION OF ORAL AND/OR WRITTEN COMMENTS

All persons are invited to submit written comments to the insurance commissioner prior to the public hearing on the proposed amendments contained in the WCIRB's filing. Such comments should be addressed to:

California Department of Insurance
Attention: Larry C. White, Senior Staff Counsel
45 Fremont Street, 24th Floor
San Francisco, California 94105
(415) 538-4423

Any interested person may present oral and/or written testimony at the scheduled public hearing. Written comments and oral testimony will be given equal weight in the insurance commissioner's deliberations.

DEADLINE FOR WRITTEN COMMENTS

All written material, unless submitted at the hearing, must be received by the insurance commissioner at the address listed above no later than 5:00 PM on ~~September 29, 2004.~~
NOTE: Deadline for written comments will be October 28, 2004.

TEXT OF REGULATIONS AND STATEMENT OF REASONS AVAILABLE

The insurance commissioner has prepared the text of the proposed regulations, the information upon which the proposed regulations are based, an Initial Statement of Reasons for the proposed regulations, in addition to the informative digest included in this Notice of Proposed Action and Notice of Public Hearing. These documents are available on the Department of Insurance website, www.insurance.ca.gov. The full text of the Final Statement of Reasons will be available on the Department of Insurance website when it has been prepared.

ACCESS TO RULE MAKING FILE, CONTACT

Any interested person may inspect a copy of or direct questions about the proposed regulations or other matters relative to this filing, the statement of reasons thereof, and any supplemental information contained in the rule-making file upon application to the contact person (listed above). The rule-making file will be available for inspection at 45 Fremont Street, 22nd Floor, San Francisco, California 94105, between the hours of 9:00 AM and 4:30 PM, Monday through Friday.

AUTOMATIC MAILING

A copy of this Notice, including the informative digest that contains the general substance of the proposed regulations, automatically will be sent to all persons on the insurance commissioner's Bulletins and Rulings, and California Government Code mailing lists.

ADOPTION OF REGULATIONS

Following the hearing, the insurance commissioner may adopt or approve regulations substantially as described in this Notice and informative digest. He also may refuse to adopt or approve the regulations. The insurance commissioner may adopt or approve modified regulations that are sufficiently related to the original text of the regulations such that the public was adequately placed on notice that the change could result from the originally proposed regulatory action. Notice of the insurance commissioner's action will be sent to all persons on the insurance commissioner's Bulletins and Rulings mailing list and to those persons who have otherwise requested notice of the commissioner's action. If the insurance commissioner adopts or approves modified regulations that are sufficiently related to the original text, the full text of the regulations as modified will be made available to the public at least 15 days before the insurance commissioner adopts or approves the modified regulations.

Dated: ~~July 29, 2004~~
August 23, 2004

JOHN GARAMENDI
Insurance Commissioner

By _____
Larry C. White
Senior Staff Counsel